

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-M No. 51238 of 2022
Date of Decision : 18.4.2023**

*Shubham Kumar Singh**..... Petitioner**versus**State of Haryana**..... Respondent*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Mohit Sadana, Advocate, for the petitioner

Ms. Mahima Yashpal, DAG, Haryana

TRIBHUVAN DAHIYA J. (ORAL):

This is a petition under Section 439 Cr.P.C. seeking regular bail to the petitioner in case FIR No.94 dated 27.2.2022 under Section 376 (3) IPC and Section 6 of POCSO Act, registered at Police Station Palam Vihar, Gurugram.

2. The FIR was lodged on a complaint by the victim's mother alleging that she noticed her daughter, aged about fifteen years, had a developed womb. When she asked about it, she was told that her daughter had met the petitioner who was residing in a paying guest accommodation opposite their house. When her daughter went to take water, she was called by the petitioner in his room and raped. Her daughter did not disclose anything about the incident due to fear

3. Learned State counsel, on instructions from L/SI Poonam, does not deny that the complainant/victim has not supported the prosecution version in her statement recorded under Section 164 Cr.P.C., and stated that she wanted to marry the petitioner and everything had happened with her consent. Both, the complainant and the victim have turned hostile before the trial Court now.

Victim's age has been ascertained to be sixteen years on the basis of

ossification test conducted, and there is no positive documentary evidence on record to prove her age. The petitioner has placed her date of birth certificate on record, to establish that she was major at the time of the alleged incident. Trial of the case is going on and seven out of seventeen witnesses have been examined. The petitioner is in custody since 2.3.2022 and has no other case is pending against him.

4. Considering the aforesaid facts on record and taking into account that trial will take some time to conclude; both, the complainant and the victim have not supported the prosecution version; and there is a dispute about actual age of the victim on the date of commission of the alleged offence, it is deemed appropriate to release the petitioner on bail, who is in custody for over one year and has no criminal antecedents.

5. Accordingly, the petition is allowed. The petitioner is ordered to be released on bail to the satisfaction of the trial Court/Duty Magistrate concerned.

(TRIBHUVAN DAHIYA)
JUDGE

18.4.2023
Ashwani

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No